

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Section 16-102 as follows:

6 (220 ILCS 5/16-102)

7 Sec. 16-102. Definitions. For the purposes of this Article
8 the following terms shall be defined as set forth in this
9 Section.

10 "Alternative retail electric supplier" means every person,
11 cooperative, corporation, municipal corporation, company,
12 association, joint stock company or association, firm,
13 partnership, individual, or other entity, their lessees,
14 trustees, or receivers appointed by any court whatsoever, that
15 offers electric power or energy for sale, lease or in exchange
16 for other value received to one or more retail customers, or
17 that engages in the delivery or furnishing of electric power or
18 energy to such retail customers, and shall include, without
19 limitation, resellers, aggregators and power marketers, but
20 shall not include (i) electric utilities (or any agent of the
21 electric utility to the extent the electric utility provides
22 tariffed services to retail customers through that agent), (ii)
23 any electric cooperative or municipal system as defined in

1 Section 17-100 to the extent that the electric cooperative or
2 municipal system is serving retail customers within any area in
3 which it is or would be entitled to provide service under the
4 law in effect immediately prior to the effective date of this
5 amendatory Act of 1997, (iii) a public utility that is owned
6 and operated by any public institution of higher education of
7 this State, or a public utility that is owned by such public
8 institution of higher education and operated by any of its
9 lessees or operating agents, within any area in which it is or
10 would be entitled to provide service under the law in effect
11 immediately prior to the effective date of this amendatory Act
12 of 1997, (iv) a retail customer to the extent that customer
13 obtains its electric power and energy from that customer's own
14 cogeneration or self-generation facilities, (v) an entity that
15 owns, operates, sells, or arranges for the installation of a
16 customer's own cogeneration or self-generation facilities, but
17 only to the extent the entity is engaged in owning, selling or
18 arranging for the installation of such facility, or operating
19 the facility on behalf of such customer, provided however that
20 any such third party owner or operator of a facility built
21 after January 1, 1999, complies with the labor provisions of
22 Section 16-128(a) as though such third party were an
23 alternative retail electric supplier, or (vi) an industrial or
24 manufacturing customer that owns its own distribution
25 facilities, to the extent that the customer provides service
26 from that distribution system to a third-party contractor

1 located on the customer's premises that is integrally and
2 predominantly engaged in the customer's industrial or
3 manufacturing process; provided, that if the industrial or
4 manufacturing customer has elected delivery services, the
5 customer shall pay transition charges applicable to the
6 electric power and energy consumed by the third-party
7 contractor unless such charges are otherwise paid by the third
8 party contractor, which shall be calculated based on the usage
9 of, and the base rates or the contract rates applicable to, the
10 third-party contractor in accordance with Section 16-102.

11 An entity that furnishes the service of charging electric
12 vehicles does not and shall not be deemed to sell electricity
13 and is not and shall not be deemed an alternative retail
14 electric supplier, and is not subject to regulation as such
15 under this Act notwithstanding the basis on which the service
16 is provided or billed. If, however, the entity is otherwise
17 deemed an alternative retail electric supplier under this Act,
18 or is otherwise subject to regulation under this Act, then that
19 entity is not exempt from and remains subject to the otherwise
20 applicable provisions of this Act. The installation,
21 maintenance, and repair of an electric vehicle charging station
22 shall comply with the requirements of subsection (a) of Section
23 16-128 and Section 16-128A of this Act.

24 For purposes of this Section, the term "electric vehicles"
25 has the meaning ascribed to that term in Section 10 of the
26 Electric Vehicle Act.

1 "Base rates" means the rates for those tariffed services
2 that the electric utility is required to offer pursuant to
3 subsection (a) of Section 16-103 and that were identified in a
4 rate order for collection of the electric utility's base rate
5 revenue requirement, excluding (i) separate automatic rate
6 adjustment riders then in effect, (ii) special or negotiated
7 contract rates, (iii) delivery services tariffs filed pursuant
8 to Section 16-108, (iv) real-time pricing, or (v) tariffs that
9 were in effect prior to October 1, 1996 and that based charges
10 for services on an index or average of other utilities'
11 charges, but including (vi) any subsequent redesign of such
12 rates for tariffed services that is authorized by the
13 Commission after notice and hearing.

14 "Competitive service" includes (i) any service that has
15 been declared to be competitive pursuant to Section 16-113 of
16 this Act, (ii) contract service, and (iii) services, other than
17 tariffed services, that are related to, but not necessary for,
18 the provision of electric power and energy or delivery
19 services.

20 "Contract service" means (1) services, including the
21 provision of electric power and energy or other services, that
22 are provided by mutual agreement between an electric utility
23 and a retail customer that is located in the electric utility's
24 service area, provided that, delivery services shall not be a
25 contract service until such services are declared competitive
26 pursuant to Section 16-113; and also means (2) the provision of

1 electric power and energy by an electric utility to retail
2 customers outside the electric utility's service area pursuant
3 to Section 16-116. Provided, however, contract service does not
4 include electric utility services provided pursuant to (i)
5 contracts that retail customers are required to execute as a
6 condition of receiving tariffed services, or (ii) special or
7 negotiated rate contracts for electric utility services that
8 were entered into between an electric utility and a retail
9 customer prior to the effective date of this amendatory Act of
10 1997 and filed with the Commission.

11 "Delivery services" means those services provided by the
12 electric utility that are necessary in order for the
13 transmission and distribution systems to function so that
14 retail customers located in the electric utility's service area
15 can receive electric power and energy from suppliers other than
16 the electric utility, and shall include, without limitation,
17 standard metering and billing services.

18 "Electric utility" means a public utility, as defined in
19 Section 3-105 of this Act, that has a franchise, license,
20 permit or right to furnish or sell electricity to retail
21 customers within a service area.

22 "Mandatory transition period" means the period from the
23 effective date of this amendatory Act of 1997 through January
24 1, 2007.

25 "Municipal system" shall have the meaning set forth in
26 Section 17-100.

1 "Real-time pricing" means tariffed retail charges for
2 delivered electric power and energy that vary hour-to-hour and
3 are determined from wholesale market prices using a methodology
4 approved by the Illinois Commerce Commission.

5 "Retail customer" means a single entity using electric
6 power or energy at a single premises and that (A) either (i) is
7 receiving or is eligible to receive tariffed services from an
8 electric utility, or (ii) that is served by a municipal system
9 or electric cooperative within any area in which the municipal
10 system or electric cooperative is or would be entitled to
11 provide service under the law in effect immediately prior to
12 the effective date of this amendatory Act of 1997, or (B) an
13 entity which on the effective date of this Act was receiving
14 electric service from a public utility and (i) was engaged in
15 the practice of resale and redistribution of such electricity
16 within a building prior to January 2, 1957, or (ii) was
17 providing lighting services to tenants in a multi-occupancy
18 building, but only to the extent such resale, redistribution or
19 lighting service is authorized by the electric utility's
20 tariffs that were on file with the Commission on the effective
21 date of this Act.

22 "Service area" means (i) the geographic area within which
23 an electric utility was lawfully entitled to provide electric
24 power and energy to retail customers as of the effective date
25 of this amendatory Act of 1997, and includes (ii) the location
26 of any retail customer to which the electric utility was

1 lawfully providing electric utility services on such effective
2 date.

3 "Small commercial retail customer" means those
4 nonresidential retail customers of an electric utility
5 consuming 15,000 kilowatt-hours or less of electricity
6 annually in its service area.

7 "Solar customer" means any class of customer of an electric
8 utility or an alternative retail electric supplier that uses a
9 photovoltaic electric delivery system.

10 "Tariffed service" means services provided to retail
11 customers by an electric utility as defined by its rates on
12 file with the Commission pursuant to the provisions of Article
13 IX of this Act, but shall not include competitive services.

14 "Transition charge" means a charge expressed in cents per
15 kilowatt-hour that is calculated for a customer or class of
16 customers as follows for each year in which an electric utility
17 is entitled to recover transition charges as provided in
18 Section 16-108:

19 (1) the amount of revenue that an electric utility
20 would receive from the retail customer or customers if it
21 were serving such customers' electric power and energy
22 requirements as a tariffed service based on (A) all of the
23 customers' actual usage during the 3 years ending 90 days
24 prior to the date on which such customers were first
25 eligible for delivery services pursuant to Section 16-104,
26 and (B) on (i) the base rates in effect on October 1, 1996

1 (adjusted for the reductions required by subsection (b) of
2 Section 16-111, for any reduction resulting from a rate
3 decrease under Section 16-101(b), for any restatement of
4 base rates made in conjunction with an elimination of the
5 fuel adjustment clause pursuant to subsection (b), (d), or
6 (f) of Section 9-220 and for any removal of decommissioning
7 costs from base rates pursuant to Section 16-114) and any
8 separate automatic rate adjustment riders (other than a
9 decommissioning rate as defined in Section 16-114) under
10 which the customers were receiving or, had they been
11 customers, would have received electric power and energy
12 from the electric utility during the year immediately
13 preceding the date on which such customers were first
14 eligible for delivery service pursuant to Section 16-104,
15 or (ii) to the extent applicable, any contract rates,
16 including contracts or rates for consolidated or
17 aggregated billing, under which such customers were
18 receiving electric power and energy from the electric
19 utility during such year;

20 (2) less the amount of revenue, other than revenue from
21 transition charges and decommissioning rates, that the
22 electric utility would receive from such retail customers
23 for delivery services provided by the electric utility,
24 assuming such customers were taking delivery services for
25 all of their usage, based on the delivery services tariffs
26 in effect during the year for which the transition charge

1 is being calculated and on the usage identified in
2 paragraph (1);

3 (3) less the market value for the electric power and
4 energy that the electric utility would have used to supply
5 all of such customers' electric power and energy
6 requirements, as a tariffed service, based on the usage
7 identified in paragraph (1), with such market value
8 determined in accordance with Section 16-112 of this Act;

9 (4) less the following amount which represents the
10 amount to be attributed to new revenue sources and cost
11 reductions by the electric utility through the end of the
12 period for which transition costs are recovered pursuant to
13 Section 16-108, referred to in this Article XVI as a
14 "mitigation factor":

15 (A) for nonresidential retail customers, an amount
16 equal to the greater of (i) 0.5 cents per kilowatt-hour
17 during the period October 1, 1999 through December 31,
18 2004, 0.6 cents per kilowatt-hour in calendar year
19 2005, and 0.9 cents per kilowatt-hour in calendar year
20 2006, multiplied in each year by the usage identified
21 in paragraph (1), or (ii) an amount equal to the
22 following percentages of the amount produced by
23 applying the applicable base rates (adjusted as
24 described in subparagraph (1)(B)) or contract rate to
25 the usage identified in paragraph (1): 8% for the
26 period October 1, 1999 through December 31, 2002, 10%

1 in calendar years 2003 and 2004, 11% in calendar year
2 2005 and 12% in calendar year 2006; and

3 (B) for residential retail customers, an amount
4 equal to the following percentages of the amount
5 produced by applying the base rates in effect on
6 October 1, 1996 (adjusted as described in subparagraph
7 (1)(B)) to the usage identified in paragraph (1): (i)
8 6% from May 1, 2002 through December 31, 2002, (ii) 7%
9 in calendar years 2003 and 2004, (iii) 8% in calendar
10 year 2005, and (iv) 10% in calendar year 2006;

11 (5) divided by the usage of such customers identified
12 in paragraph (1),
13 provided that the transition charge shall never be less than
14 zero.

15 "Unbundled service" means a component or constituent part
16 of a tariffed service which the electric utility subsequently
17 offers separately to its customers.

18 (Source: P.A. 97-1128, eff. 8-28-12.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.